

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 UNIVERSAL TRADING & INVESTMENT
12 COMPANY,

13 Plaintiff,

14 v.

16 PETRO MIKOLAYEVICH KIRITCHENKO,
17 et al.,

18 Defendants

11 No. C-99-3073 MMC (EDL)

12 **ORDER VACATING HEARING RE:
MOTION TO STRIKE PLEADINGS,
ENTER DEFAULT, AND FOR
SUMMARY JUDGMENT AGAINST
DUGSBERY INC.; REFERRING
DISCOVERY DISPUTE RE: DUGSBERY,
INC. TO MAGISTRATE JUDGE
LAPORTE; DIRECTING DEFENDANT
LAZARENKO TO FILE DECLARATION
RE: UKRAINIAN SUPREME COURT
DECISION**

13 (Docket No. 1102)

20 Before the Court is plaintiff's "Notice of Renewed Motion to Strike Pleadings, Enter
21 Default, and of Renewed Motion for Summary Judgment Against Defendant Dugsbery
22 Inc.," and Memorandum of Points and Authorities in support thereof, filed November 17,
23 2006. The Court previously issued an order, (see Docket No. 906), vacating the hearing
24 dates on the dispositive motions plaintiff previously filed as to Dugsbery, (see Docket Nos.
25 883, 884), pending a ruling on defendants' motion for summary judgment on the issue of
26 standing, (see Docket No. 843), which motion remains under submission. Because the
27 instant motion incorporates the arguments set forth in plaintiff's prior dispositive motions as
28 to Dugsbery, and as defendants' motion for summary judgment on the issue of standing

1 remains under submission, the Court hereby VACATES the December 22, 2006 hearing on
2 the instant motion. The Court will set a new hearing date, if necessary, after it rules on
3 defendants' motion for summary judgment on the issue of standing.

4 By the instant motion, plaintiff additionally seeks to compel discovery from Dugsbery
5 or, in the alternative, the imposition of discovery sanctions against Dugsbery. Pursuant to
6 Civil Local Rule 72-1, the instant discovery dispute between plaintiff and Dugsbery is
7 hereby REFERRED to Magistrate Judge Elizabeth D. Laporte, the magistrate judge to
8 whom all prior discovery disputes have been referred, to be heard and considered at the
9 convenience of her calendar. To the extent defendants seek terminating sanctions due to
10 the asserted failure of Dugsbery to participate in discovery, the motion is referred for a
11 report and recommendation.

12 Finally, in the instant motion, with respect to the pending motion for summary
13 judgment on the issue of standing, which pending motion is based on decisions issued in
14 Ukrainian court actions separately filed by defendant Petro Mikolayevich Kiritchenko and
15 defendant Pavel Lazarenko ("Lazarenko"), plaintiff states that plaintiff has "learned that
16 [Lazarenko] lost in the Supreme Court of Ukraine in July, 2006" and that plaintiff "is unable
17 to obtain a copy of that decision, nor any underlying documents, from Lazarenko, Dugsbery
18 or any other defendants." (See Motion at 4:5-8.) Any such decision by the Ukrainian
19 Supreme Court is highly relevant to the pending motion for summary judgment on the issue
20 of standing and, if in fact issued, should have been submitted to this Court immediately
21 thereafter. Accordingly, Lazarenko is hereby ORDERED to file, no later than December 29,
22 2006, a copy of the above-referenced Ukrainian Supreme Court decision along with a
23 supporting declaration and explanation as to why such document was not submitted earlier,
24 or a declaration attesting that no such decision has been issued and setting forth the
25 current status of his Ukrainian action.

26 **IT IS SO ORDERED.**

27 Dated: December 11, 2006


28 MAXINE M. CHESNEY
United States District Judge